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WILMER CUTLER PICKERING HALE AND DORR LLP THE WILLARD OFFICE BUILDING 1455 PENNSYLVANIA AVE, NW WASHINGTON, DC 20004				
EXAMINER				
PHILLIPS, HASSAN A				
ART UNIT		PAPER NUMBER		
2151				

DATE MAILED: 10/11/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

MC

Office Action Summary

Application No.

09/810,559

Applicant(s)

HOGLUND ET AL.

Examiner

Hassan Phillips

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 04 August 2005.
- 2a) ☒ This action is FINAL. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 66-130 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 66-130 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 22 October 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. _____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

1. This action is in response to communications filed August 4, 2005.

Drawings

2. After consideration of the amendments made to the specification to change reference characters previously mentioned in the description and not in the drawings, to reference characters that were previously in the drawings and not in description, Examiner has withdrawn all objections to the drawings.

Claim Objections

3. Claims 88 and 89, are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claim 88 fails to further limit the subject matter of claim 74, and claim 89 fails to further limit the subject matter of claim 75.

Response to Arguments

4. Applicant's arguments filed August 4, 2005 have been fully considered but they are not persuasive. Applicant argued that:

- a) There is no admitted prior art in the present application;

- b) Gateways being connected to each other was not well known in the context of the present invention;
- c) Implicit teachings are not necessarily obvious with regards to claims 19, 20, 36, 37, 64, 65;
- d) Load balancing was not well known in the art in the context of the present invention.

Examiner respectfully disagrees.

5. Regarding item a), Examiner submits Applicants disclosure of the practical state of the prior art (pages 2-16) is admitted prior art, see MPEP 608.01(c).

6. Regarding item b), Examiner submits having gateways operatively connectable to each other to perform various services was well known in the art at the time of the present invention. Coskrey exemplifies this in teaching first and second gateways operatively connectable to each other to perform any number of services, such as e-mail services, (col. 4, lines 36-51). Examiner further submits, given the teachings of Coskrey, it would have been obvious to one of ordinary skill in the art to modify the teachings of the AAPA to have first and second gateways connected to each other in the context of the present invention to provide such services more efficiently to a user, Coskrey col. 4, lines 36-38.

7. Regarding item c), Examiner submits the message processor, in the combined teachings of AAPA and Coskrey, would have to convert the message format of the at least one third communications device to a message format of the at least one first communications device since this is the function of a gateway between two different protocols (see Applicant's disclosure, pages 2-15, also see Coskrey, col. 4, lines 36-51). Thus, the features in claims 19, 34, and 64 are implicitly taught in the combination of AAPA and Coskrey. Examiner further submits the lookup manager, in the combined teachings of AAPA and Coskrey, would have to delete a message record when a corresponding message is transmitted to the at least one first communication device since it is impossible for a device to have an infinite amount of storage, and also since this is a well known feature (see Applicant's disclosure, pages 2-15, also see Coskrey, col. 4, lines 36-51). Thus, the features in claims 20, 37, and 65 are also implicitly taught in the combination of AAPA and Coskrey.

8. Regarding item d), Examiner submits load balancing was well known in the art at the time of the present invention. Choquier exemplifies this in teaching load considerations determining whether a first server or a second server is used for dynamically allocating services for a communications device, wherein when service usage level is above a predetermined threshold level the second server is used (col. 3, lines 31-49). Examiner further submits, given the teachings of Choquier, it would have been obvious to modify the teachings of the AAPA and Coskrey, to show network load considerations determining whether the at least one first gateway or the at least one

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second gateway is used to transmit signals from the at least one first communications device to the at least one second communications device, wherein when system traffic and/or response time is above a predetermined threshold level the at least one second gateway is used to provide an efficient means for transparently using an alternate gateway for maintaining a communication between a first and second device when the original gateway is no longer capable of doing so, Choquier, col. 3, lines 51-58.

9. Accordingly the references supplied by the examiner in the previous office action covers the claimed limitations. The rejections are thus sustained. Applicant is requested to review the prior art of record for further consideration.

Claim Rejections - 35 USC § 103

10. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

11. Claims 66-74, 76-88, 90-127, 129, 130, are rejected under 35 U.S.C. 103(a) as being unpatentable over Applicants Admitted Prior Art (AAPA), in view of Coskrey, IV (hereinafter Coskrey), U.S. Patent 6,336,171.

12. In considering claims 66, 91, and 108, the AAPA teaches a method and communications system for transmitting and/or receiving signals with at least two communication devices via at least one of a real time and a polled transmission, said communications system comprising: at least one first gateway responsively communicable with at least a first wireless communications device and at least a second wireless communications device, wherein said at least one first gateway at least one of transmits and receives signals on a real time basis with the at least one first wireless communications device and the at least one second communications device, (pages 13-15); at least one second gateway, responsively communicable with the at least one first wireless communications device and at least a third communications device, wherein the at least one second gateway at least one of transmits and receives signals on a polled basis with the at least one first communications device and the at least one third communications device, (pages 13-15); performing the real time and the polled transmission based upon predetermined criteria, (pages 13-15); and said communications system comprising an integrated wireless communications system providing the sending and receiving of messages on the real time and the polled transmission, while also allowing users to utilize the at least one of the first and second wireless communications devices to check messages stored within a separate at least one of POP and IMAP data message account, (pages 13-15).

Although the AAPA shows substantial features of the claimed invention, it fails to explicitly disclose: the first and second gateways operatively connectable to each other to perform the at least one of real time and polled transmission.

Nevertheless, having gateways operatively connectable to each other to perform various services was well known in the art at the time of the present invention. This is exemplified in the teachings of Coskrey. More specifically, Coskrey teaches a cluster environment comprising: first and Second gateways operatively connectable to each other to perform any number of services, such as e-mail services, (col. 4, lines 36-51).

Thus, given the teachings of Coskrey, it would have been obvious to one of ordinary skill in the art to modify the teachings of the AAPA to have a first and second gateway operatively connectable to each other to perform the at least one of real-time and polled transmission. Both services are desirable to users for different reasons, (AAPA, pages 13-15). Having the first and second gateways operatively connectable to each other to perform real time and polled transmission would efficiently provide both these highly desirable services to a user, instead of having the user choose between one or the other, (AAPA, pages 13-15, Coskrey col. 4, lines 36-38).

13. In considering claims 67, 92, and 109, AAPA provides a means for the at least one second gateway to comprise: a scheduler determining which of the at least one first communication devices are active, (pages 13-15); a device action manager receiving notification from said scheduler and monitoring which of said at least one first wireless communication devices have requested to download a message, (pages 13-15); a download manager receiving notification via said scheduler at which time messages associated with each of the at least one first wireless communications device are to be downloaded, (pages 13-15); a message lookup manager determining an

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identifier associated with each message associated with each of the at least one first wireless communications device and selecting those messages that have not been downloaded from the at least one third communications device to the respective first communications device, (pages 13-15); and a message processor for retrieving messages not yet downloaded from the third communications device and transmitting the messages to a designated first wireless communications device as determined by a selection system, (pages 13-15).

14. In considering claims 68 and 93, the AAPA provides a means for the scheduler to determine the time at which messages for each of the at least one first wireless communications device are downloaded, (page 14).

15. In considering claims 69 and 94, the AAPA provides a means for the scheduler to access subscriber information from the selections system to determine user specified download times, (page 14).

16. In considering claims 70 and 95, the AAPA provides a means for the download manager to download messages subsequent to receiving an indication from the scheduler and the lookup manager, (page 14).

17. In considering claims 71, 96, and 129, it is implicit in the teachings of the AAPA that the message processor converts the message format of the at least one third

communications device to a message format of the at least one first wireless communications device, (pages 13-15).

18. In considering claims 72, 97, and 130, it is implicit in the teachings of the AAPA that the lookup manager deletes a message record when a corresponding message is deleted on the at least second or third communications device, (pages 13-15).

19. In considering claim 73, the AAPA provides a means for each of the at least one first gateways to have a common domain name associated therewith, (pages 14-15).

20. In considering claims 74, 88, and 127, the AAPA provides a means for the at least one second gateway to further at least one of transmit and receive signals on a real time basis with the at least one first communications device and the at least one second communications device, (pages 14-15).

21. In considering claims 76 and 90, the AAPA provides a means for the signals to comprise a facsimile transmitted from the at least one first communications device to the at least one third communications device in real time via said at least one first gateway and said at least one second gateway, (pages 13-14).

22. In considering claims 77, and 98, the AAPA teaches the predetermined criteria comprising an Internet domain name associated with each of the at least one first communications device and the at least one second communications device, (pages 15-16).

23. In considering claims 78, 99, and 115, the AAPA teaches the Internet domain name comprising at least one of a name of an organization or a name of an individual combined with a top level domain name, (pages 15-16).

24. In considering claims 79, 100, and 116, the AAPA teaches the top level domain names comprising: .com; .net; .org; .edu; .gov; .mil; and .int, (pages 15-16).

25. In considering claims 80, 101, and 121, the AAPA provides a means for the least one first communications device to comprise a wireless messaging device, the predetermined criteria to comprise a first identifier associated with at least the at least one first gateway, and the second communications device to comprise a wireless messaging device, and the predetermined criteria to further comprise a second identifier associated with at least the at least one first gateway, wherein the at least one first communications device and the at least one second communications device transmit signals to each other via the at least one first gateway, (pages 7-10).

26. In considering claims 81, 102, and 117, the AAPA teaches the signals comprising at least one of an electronic mail message, an electronic page, and a paging message. See pages 7-10.

27. In considering claims 82 and 122, the AAPA provides a means for the least one first communications device to comprise a wireless messaging device having a first identifier associated with at least the at least one first gateway, and the at least one third communications device being an e-mail server storing messages for at least one e-mail account, each e-mail account having a second identifier associated therewith, wherein the at least one first communications device and the at least one third communications device transmit signals to each other via the first and second gateways, and wherein the predetermined criteria are respective identifiers associated with each of the at least one first communication device and the at least one third communication device, (pages 7-10).

28. In considering claims 83, 103, 119, and 123, the AAPA provides a means for the at least one second or third communications device to be a post office protocol server, (page 14).

29. In considering claims 84, 104, 120, and 124, the AAPA provides a means for the at least one third or second communications device to be an Internet messaging access protocol server, (page 14).

30. In considering claims 85, 105, and 125, the AAPA provides a means for the selection system to allow a user to select at least one of the real time and polled transmission, wherein when the user selects the polled transmission, the signals comprise at least one e-mail message that is retrieved from a specified e-mail account associated with the at least one third communications device and are transmitted to one of the at least one first communications device, (pages 13-14).

31. In considering claims 86 and 106, the AAPA provides a means for the user to select a name of the specified e-mail account via the selection system, (pages 14-15).

32. In considering claims 87, 107, and 126, the AAPA provides a means for the user to specify a time at which the at least one e-mail message is transmitted from the at least one third or second communications device to the at least one first communications device, (pages 14-15).

33. In considering claim 110, the AAPA provides a means for the at least one second gateway to monitor which of the at least one first wireless communication devices has requested to download a message from the at least one third wireless communications device, (pages 13-15).

34. In considering claim 111, the AAPA provides a means for the at least one second gateway to monitor when messages associated with each of the at least one first wireless communications device are to be downloaded, (pages 13-15).

35. In considering claim 112, the AAPA provides a means for the at least one second gateway to recognize an identifier associated with each message associated with each of the at least one first wireless communications device and selects those messages that have not been downloaded from the at least one third wireless communications device to the at least one first wireless communications device, (pages 13-15).

36. In considering claim 113, the AAPA provides a means for the at least one second gateway to retrieve messages not yet downloaded from the at least one third wireless communications device and transmits at least one message to a designated one of the at least one first wireless communications device, (pages 13-15).

37. In considering claim 114, the AAPA provides a means for the predetermined criteria to be one of a) an identifier associated with the at least one first wireless communications device and an identifier associated with the at least one second communications device, or b) an identifier associated with the at least one third wireless communications device, (pages 7-10, 13-15).

38. In considering claim 118, the AAPA teaches in a polled transmission the at least one first wireless communication device is a wireless device and the at least one third wireless communications device is a server, (page 14).

39. Claims 75, 89, 128, are rejected under 35 U.S.C. 103(a) as being unpatentable over the AAPA, in view of Coskrey, and further in view of Choquier et al. (hereinafter Choquier), U.S. Patent 5,951,694 (supplied by applicant).

40. In considering claims 75, 89, and 128, although the system taught by the AAPA and Coskrey show substantial features of the claimed invention, it fails to expressly disclose: load balancing between the first and second gateways.

Nevertheless, load balancing was well known in the art at the time of the present invention. This is exemplified in the teachings of Choquier. More specifically Choquier teaches a method for redirecting services comprising: load considerations determining whether a first server or a second server is used for dynamically allocating services for a communications device, wherein when service usage level is above a predetermined threshold level the second server is used, (col. 3, lines 31-49).

Thus given the teachings of Choquier, it would have been obvious to modify the teachings of the AAPA and Coskrey, to show network load considerations determining whether the at least one first gateway or the at least one second gateway is used to transmit signals from the at least one first communications device to the at least one second communications device, wherein when system traffic and/or response time is

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above a predetermined threshold level the at least one second gateway is used. This would have provided an efficient means for transparently using an alternate gateway for maintaining a communication between a first and second device when the original gateway is no longer capable of doing so, Choquier, col. 3, lines 51-58.

Conclusion

41. THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the mailing date of this final action.

42. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Hassan Phillips whose telephone number is (571) 272-3940. The examiner can normally be reached on M-F 8:00am-5:00pm.

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If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Zarni Maung can be reached on (571) 272-3939. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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10/5/05


ZARNI MAUNG
SUPERVISORY PATENT EXAMINER